

Notice of Allowability

Application No.

10/719,712

Examiner

Wendy C Haas

Applicant(s)

OLESEN ET AL.

Art Unit

1661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to papers filed November 21, 2003 and October 15, 2004.
2. ☒ The allowed claim(s) is/are the claim.
3. ☒ The drawings filed on 15 October 2004 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date 12/1/4.
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Ken Rynearson on December 1, 2004.

The application has been amended as follows:

- A. Page 2, lines 9 and 10, the recitation “, an unpatented variety” has been changed to – (unpatented) --.
- B. Page 2, line 13, the recitation – was selected as a single plant from the controlled cross and – has been inserted after the word “variety”.
- C. Page 2, line 18, the word “pollen” has been changed to – female--.
- D. Page 2, line 21, the word “pollen” has been changed to --female--.
- E. Page 3, line 7, the word “seed” has been changed to --male--.
- F. Page 3, line 19, the recitation – than what is typical of climbing roses – has been inserted after the word “dominant”.
- G. Page 3, line 24, the word “distinguish” has been changed to read –distinguishes--.
- H. Page 5, line 12, the recitation – typical outdoor conditions in – has been added after the recitation “growth in”.
- I. Page 5, lines 18-21, the recitation “, a rose variety from the same inventors described and illustrated in U.S. Plant Patent Application No. 10/341,890 and dated 13 January

2003,” has been deleted and is replaced with – (United States Plant Patent Application Serial Number 10/341,890) --.

J. Page 6, line 17, the recitation – Bud diameter is normally 12 mm.—has been inserted after the word “bud”.

K. Page 6, after line 22, the following lines have been added:

-- Sepal Shape:

Apex: Cirrhose.

Base: Flat at the union with the receptacle.

Sepal Size: 15 to 18 mm long by 5 to 7 mm wide. --.

L. Page 7, after line 17, the following recitation has been inserted:

-- Diameter: 2mm (average). --.

M. Page 8, line 2, after the recitation “10 days.” the following recitation has been added: -- Petals drop away cleanly from the receptacle after flowers have fully matured. --.

N. Page 8, line 4, after the recitation “when open.” the following recitation has been added: -- Flower depth is normally 15 to 18 mm. --.

O. Page 11, after line 9, the following recitation has been added:

-- Size: Typically 15 mm in length by 5 mm wide.

Shape: Elliptic and irregular.

Apex: Rounded.

Base: Acute. --.

P. Page 12, line 3 has been deleted.

Q. Page 12, line 25, the recitation --A blend of--has been added before the word "Greyed-Orange".

R. Page 13, line 1, the word "to" has been changed to read – and--.

S. Page 13, lines 9 and 10, the recitation "15-18 mm (l) x 8-16 mm (w)" has been deleted and is replaced with – 70-57 mm (l) X 30-35 mm (w) --.

T. Page 14, after line 1, a new line has been added:

-- Quantity: 2 per compound leaf. --.

U. Page 14, after line 5, a new line has been added:

-- Shape: Linear with outward extending apices. --.

V. Page 14, after line 7, a new line has been added:

-- Diameter: 2 mm. --.

References Cited

United States Plant Patents as cited but not applied in any rejection herein are made of record to show the state of the art, and are the most similar patented cultivars to the instant plant known to the Examiner.

Future Correspondence

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wendy C. Haas whose telephone number is (571) 272-0976. The examiner can normally be reached on Monday through Friday 9:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Wang can be reached on (571) 272-0811. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

W. C. Haas

KENT BELL
PRIMARY EXAMINER

Kent Z. Bell